



Hōkūāla

KAUA'I

— A Timbers Resort —

Design and Construction
Guidelines for Homesites at
Pākela 'Ike

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1 Introduction

The Design and Construction Guidelines for Homesites at Hokuala (Subdivision 4) apply to the development of residential properties within the Homesites at Hokuala (Subdivision 4) subdivision project ("Project"), which is a part of the "Hokuala" master-planned resort community located in Lihue, Kauai, Hawaii. Hokuala encompasses approximately 327.3 acres and offers secluded property with ocean vistas and a navigable waterway, interwoven amongst a championship golf course and located just minutes from the civic center and the Lihue Airport.

The purpose of these guidelines is to promote harmonious development, to protect and enhance property values and to ensure that the overall planning philosophy of the development is carried out as each portion of Hokuala is constructed or modified. The guidelines act first as an information source to owners, builders, architects and developers. And secondly as a regulatory mechanism to ensure that all development in Hokuala is completed in a prescribed and environmentally sensitive manner. These guidelines are not intended to constitute a complete list of all standards that must be satisfied. Nothing within these standards is intended to conflict with the Declaration of Covenants, Conditions and Restrictions for Kauai Lagoons, recorded at the Bureau of Conveyances of the State of Hawaii as Document No. 2008-040613, as amended ("Master Declaration"), the Special Management Area Use Permits and amendments thereto for Hokuala or any portion thereof, including the Project (collectively, "Permits"), the Habitat Conservation Plan ("HCP") or applicable local jurisdiction regulations.

The philosophy of Hokuala is the sensitive integration and blending of the Hawaiian lifestyle, the people, the structures and the developed environment into a harmonious and aesthetically pleasing community. At Hokuala, emphasis will be given to development that is planned to harmonize, blend with and complement, rather than dominate, the natural environment. Accordingly, any disturbance or development of the topography will demonstrate a high sensitivity to the local environment, and the avoidance and disruption of the cultural and spiritual components of Hawaiian life. Hokuala

will emulate the ancient Hawaiian architects whose sacred duty was not only to build a proper structure, but to make sure it was appropriate to its place.

These guidelines address such matters as height, color, massing, building materials and landscaping features. The purpose of these guidelines is not to create look-alike structures, but to ensure that designs are compatible with each other, the site and other adjacent structures. No dwelling unit or building should stand apart in its design or construction as to detract from the overall environment of Hokuala. It is the intent of the development philosophy, the architectural standards and the design restrictions set forth in these guidelines to preserve, protect and enhance the special environment and community of the Project and Hokuala.

These guidelines will be administered by a Design Committee, the members of which shall be appointed by the declarant under the Master Declaration ("Master Developer ") during the Declarant's Control Period (as defined in the Master Declaration). Thereafter, the Board of Directors of the Hokuala Community Association ("Board") shall appoint the members of the Design Committee. The purpose of the Design Committee is to evaluate each proposed design for appropriateness to its lot and compliance with these guidelines. Its job is one of assistance, helping owners and their design teams maximize the owners' architectural and living experiences at Hokuala.

The Design Committee has the right, but not the obligation, to grant waivers for minor deviations and infractions of established criteria. The granting of any waiver for any portion of the lots may be given or withheld at the Design Committee's sole discretion. A prior grant of a similar waiver shall not impose upon the Design Committee any duty or obligation to grant new or additional requests for such waivers. Should an owner fail to correct a violation of these guidelines within thirty (30) days after receiving notice thereof, the owner will be liable for all costs of removal, restoration and enforcement incurred by the Board or its designee in performing such removal and restoration, plus interest.

It is strongly recommended that a Lot owner wishing to construct a house in the Project have such owner's architectural designers and builders contact a Design Committee or Master Developer representative prior to commencing

the design phase of the dwelling unit so that said professionals may gain a complete understanding of these guidelines.

2 Use and Site Development Restrictions and Requirements

Each owner, developer and occupant of a lot in the Project ("Lot") shall at all times comply with all applicable laws and all of the provisions of the Master Declaration. Although the Permits and HCP are included in these guidelines, the official documents that require compliance should be reviewed in their entirety.

Each owner of a Lot shall be responsible for ensuring that such owner's architect, engineer, general contractor and all subcontractors also comply with all applicable laws and ordinances, and with all of the provisions of the Master Declaration, Permits and HCP. In addition, each owner, developer and occupant of a Lot shall at all times comply with and observe each of the following provisions; provided, however, that in the event of any conflict between or among the provisions set forth below, the provisions of the Master Declaration and applicable laws, codes or ordinances, the most restrictive provision, law, code or ordinance shall control.

All dwelling units located between the 60 and 65 DNL noise contours shall achieve an interior noise level of 45dB. Acoustical design compliance shall be certified by a registered professional acoustical engineer. Accessory uses and structures including garages and carports not used for human habitation or occupancy may be placed within the area greater than the 65 DNL noise contours without mitigation.

2.1 Utilities

- a) Except for propane gas, utility services shall be provided to the boundary of each Lot or parcel. All house connections for all utilities including, but not limited to, water, sewer, electricity, telephone, cable and any other utilities shall be installed underground from the proper connecting points to the dwelling structure in such a manner as to be acceptable to the governing utility authority and Design Committee.

- b) Propane gas must be within an enclosure, screened from the view of golf courses, and adjacent lots and streets, as approved by the Design Committee, County of Kauai ("County") agencies and gas supplier.
- c) Meters and service panels shall be screened from public view.
- d) Satellite dishes and antennae (including ham radio) require approval by the Design Committee and shall be screened from the view of golf courses, adjacent lots and streets.

2.2 Individual Lot Plot Plans

- a) Plot plans for each Lot will be furnished to the owner thereof designating:
 - i. Approximate utility locations
 - ii. Approximate pad elevations
 - iii. Buildable area of the Lot
 - iv. Building setbacks
 - v. Minimum planting or lagoon water line
 - vi. Building height limits
 - vii. Number of stories

All grades, contours and utility locations indicated thereon are approximate and subject to verification by the owner prior to start of construction.

- b) It shall be the owner's responsibility to examine the plot plans, arrange for a subsurface soil investigation and design and construct the dwelling accordingly. Each owner is advised to obtain a comprehensive soils report prior to commencing construction upon a Lot.
- c) The Master Developer and Design Committee make no representation and assume no responsibility for the accuracy of

information set forth in the plot plans, which information is approximate and subject to verification by owners.

2.3 Easements

- a) No improvements, including, without limitation, roof eaves and overhangs, or major planting shall be placed on, below or above utility easements without the prior written consent of the Design Committee and, if applicable, the prior written consent of the person or entity utilizing the easement or to whom the easement has been granted.
- b) Any owner of a Lot intending to grant an easement must first submit a written request to the Design Committee and Master Developer. The granting of such easement shall not unreasonably interfere with the use of the easement area by other Lot owners, the Hokuale Community Association ("Master Association"), or the Master Developer, to the extent any of them have the right to use the subject area. The person or entity to whom the easement is granted must proceed promptly and expeditiously to restore the surface of the easement area to its original condition as soon as possible after completion of any work therein.
- c) Any entity or person requesting an easement shall submit a written request to the Design Committee with a recordable document and process of approvals.

2.4 Grading

- a) The owner of a Lot shall accept the condition of such Lot in an "as is" and "where is" condition. All subsequent grading work performed by the owner shall be in strict compliance with plans as approved by the Design Committee.
- b) It is the general intent of these guidelines to avoid massive grading and retaining walls and to balance cut and fill volumes.
- c) Grading shall be gently contoured with no cut and fill banks greater than 3:1 slope.

- d) Finish grades on re-graded slopes must transition into the natural grade in a manner that appears natural and seamless.
- e) The maximum fill on any Lot shall be 24" above the existing grade noted on the plot plans provided.

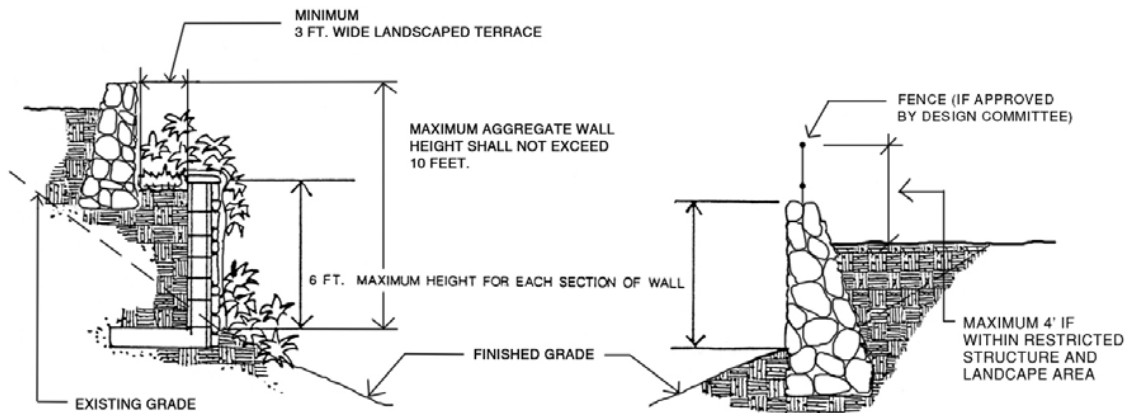


Figure 3.3 – Typical Retaining Wall Requirements

2.5 Lot Drainage

- a) The flow of existing surface and/or subsurface drainage onto, across or from each Lot shall not be obstructed.
- b) Storm water generated on each Lot shall be disposed of in drywells or retained on the same Lot. No storm water shall be discharged onto an adjacent Lot, golf course or roadway.
- c) The design for Lot drainage facilities shall be prepared by an architect or civil engineer registered in the State of Hawaii and shall be subject to the prior approval of the Design Committee.
- d) Onsite drainage systems must be designed to accommodate site development without increasing run-off or off-site impacts.

- e) Lot drainage and grading design shall comply with the requirements of the Resort Master Drainage Study (current edition) as applicable. Hard connections to the primary storm drain are not permitted.
- f) Grass along driveways, walkways, gutters and roadways shall be kept edged and shall not be allowed to encroach onto any drainage inlet grate, driveway, swale, sidewalk, gutter or roadway. Grass clippings shall be removed from all paved areas immediately after mowing and edging.

2.6 Fire Hazard

- a) Each Lot, and all improvements located thereon, shall be maintained by the owner thereof in good condition and repair, and in such manner as to not create a fire hazard, all at the owner's expense. If the owner fails to comply, the Master Association shall have the right to perform remedial work and to assess the cost to the owner as a special assessment pursuant to the Master Declaration.
- b) Each Lot owner shall be required to abide by local, state and national fire protection standards.

2.7 Planted and Undisturbed Areas

Only 50% of the Lot area shall be covered by buildings, pools, driveways, walkways, lanais and other paved or impermeable surfaces; conversely, planted area shall not be less than 50% of the land area of each Lot.

2.8 Paved Play Area

Paved play areas shall not be permitted within setback areas, and all play areas must be adequately screened by landscaping or other acceptable architectural means. No paved play areas or recreational equipment is permitted in the front or side yard.

2.9 Vehicle Repair and Parking

There shall be no repair, except emergency repair, performed on any vehicles, boats or motorized equipment, including golf carts and all-terrain vehicles, on or adjacent to any Lot.

Storage of boats and watercraft are not permitted on a Lot. Parking of permitted vehicles is limited to paved areas only; no parking on areas designated as landscaping.

2.10 Habitat Conservation Plan (HCP)

It is illegal to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect or attempt to engage in any such conduct with regard to any of the bird species covered under the HCP. Pets must be properly controlled and kept within established pedestrian walkways and sidewalks at all times. Dogs and cats must be kept on a leash or reins held by a person capable of controlling the animal at all times. Pets that harm or threaten endangered or threatened bird species may be banned from Hokuāla. Trash and food waste must be disposed of properly to ensure that protected bird species do not come into contact with potentially dangerous trash or food waste. Trash receptacle lids must be closed or latched to ensure closure. The Lot owner shall be responsible for all legal actions, fines, or other impositions resulting from such owner's or such owner's guests', licensees' and invitees' noncompliance with the HCP.

- a) HCP Construction Plan - Prior to commencement of construction on a Lot, an owner shall submit a bird safety mitigation plan to the Board, which plan must be in compliance with the requirements of the HCP. Specific information regarding these requirements is included in the Declaration of Covenants, Conditions and Restrictions for Kauai Lagoons.

3 Architectural Standards

3.1 Architectural Character

The architectural style of Hokuāla draws its inspiration from traditional and historic Hawaiian design themes and motifs. The desired character is one

of simple elegance achieved through the use of natural materials, earth tone colors and appropriate ornamentation.

Buildings shall have gently pitched roofs with deep overhangs shading walls and generously sized door and window openings. Large lanais link the dwelling unit to the outside and provide sheltered outdoor living spaces. Openings are oriented toward ocean, mountain and golf course views and are placed to provide maximum cross ventilation.

The Kauai climate within Hokualea should dictate design. Privacy for openings oriented toward neighbors' yards should be achieved by creating garden courts that are surrounded by privacy walls and/or landscaping.

The Design Committee shall prohibit architectural styles, without liability or limitations, when the architectural character of a building is not harmonious and or detracts from the intended architectural character of Hokualea.

3.2 Buildable Area

The "buildable area" of a Lot shall consist of all the area defined by the building setback lines and building envelopes where present. Buildable areas have been established to reasonably protect open space and view corridors and to respond to existing topography.

All improvements, except garden and retaining walls, pools and fences depicted on a Design Committee approved plot plan, must be confined solely to the buildable area of each Lot and may not be located in or encroach on any setback areas.

3.3 Building Footprint

The building footprint shall mean the area of the Lot, within the buildable area, covered by the horizontal areas included within the exterior walls of all structures (including garages) on the Lot, plus any area with the exterior posts supporting a solid overhead roof or covering.

3.4 Finish Floor Elevation

- a) Finished floor elevations shall not exceed existing grades by more than four (4) feet, or less as approved by the County Department of Public Works and Planning Department ordinance, as shown on the individual plot plans for each lot.
- b) Massive cutting and filling and high retaining walls shall be avoided.

3.5 Building Envelope

- a) A building envelope or a three-dimensional volume of space for each Lot is established. The building envelope defines building height and setback limitations and is shown on the individual Lot plot plan. Building envelope designations are based on setback considerations, view planes and other site planning and design criteria.
- b) All parts of the building, except overhangs at the front setback, shall be designed to fit within the allowable buildable area given for each Lot unless specifically approved by the Design Committee.

3.6 Building Height

No single-family dwelling or accessory structure shall be more than two (2) stories above and one (1) story below from the finished grade at the main entry, over twenty (20) feet measured from the finished grade at the main entry to the highest exterior wall plate line, and over thirty (30) feet to the highest point of the roof measured at each point along the building from the finished grade at the main entry. The finished grade at the main entry shall not be elevated more than a maximum of two (2) feet from the existing grade. Lower minimums may be imposed as a condition to Design Committee approval to recognize topographic, light and air, privacy or architectural conditions of adjacent development or uses.

3.7 Minimum Dwelling Size

Each single family detached dwelling construction upon a Lot shall have a minimum of two thousand (2,000) square feet of enclosed living area, excluding the garage, storage areas and lanai areas. Unless approved in writing by the Design Committee as to use, location and architectural design, no greenhouse, tool or storage room or any other structure may be constructed separate and apart from the dwelling unit.

3.8 Garage, Guest Parking

- a) Each single-family dwelling constructed upon a Lot shall include a garage for at least two (2) cars containing not less than four hundred and fifty (450) square feet of parking area under the roof, (measured to the inside face of walls), which may be attached to or detached from the dwelling. All garages shall be fully enclosed with garage doors.
- b) All garages must have a minimum width of twenty-two (22) feet for a two-car garage measured from inside the walls of the garage and a minimum single overhead door width of sixteen (16) feet for a two-car garage.
- c) All garage doors shall be equipped with electrical or other self-powered automatic garage door opening devices.
- d) Privately owned golf carts must be stored within the enclosed garage space.
- e) One (1) additional paved guest parking space shall be provided on each Lot.
- f) Garage doors facing the street shall be recessed an additional ten (10) feet behind the front yard building setback. Garage doors facing the street are discouraged.

3.9 Roof Materials, Pitch and Overhang

- a) Roofs shall use high-grade cedar or resawn shingles; standing seam metal roofing, concrete or clay tile, and slate may also be permitted by the Design Committee.

- b) Roofs shall be designed with either a single or double pitch at a minimum 4:12 main slope and 3:12 secondary slope.
- c) Flat roofs shall be prohibited unless the Design Committee approves. Areas where flat roofs may be desirable such as a lanais, porches and balconies will require Design Committee approval. This also applies to pergolas or trellis structures.
- d) Roof colors shall be earth tones, and non-reflective.
- e) Gutters with downspouts are required. In no event should gutters and downspouts drain onto adjoining Lots. Copper is the recommended material for all gutters and downspouts. Profiles are subject to Design Committee approval.
- f) Roofs shall be maintained and kept free of mold, mildew and rust.
- g) Overhangs:
 - Roof overhangs shall be 3'-0" wide minimum not including gutters as measured horizontally and shall not extend into the side building setback areas unless specifically approved by the Design Committee.
 - Overhangs shall not encroach into easement areas.

The predominant roof form for any portion of the roof shall be hip roof form. Other minor roof elements, including dormers, Dutch gables, or similar roof elements may be permitted so long as they are secondary to the predominant hip form.

3.10. Building Surfaces

Articulation of building surfaces is encouraged to soften their appearances and reduce mass. Articulation should be achieved by utilizing various architectural elements including but not limited to:

- Projections and recesses to provide shadows and depth
- Lanais
- Sun shading devices such as trellises
- Staggering of wall planes
- Articulated doors, windows and wall openings
- Avoidance of large unbroken wall and roof surfaces
- Entry to the dwelling unit through a covered entry lanai is encouraged
- Covered entry lanais shall be proportional and have forms consistent with the architecture of the house

Limitations on Second Floor Area:

Where a dwelling unit has a second story, the total area of the second story shall not exceed sixty percent (60%) of the area of the first story, including enclosed areas and covered lanais (as defined by the vertical support line), but excluding any garage, porte cochere and similar vehicle structures. For the purpose of this calculation, the second floor area shall include all floor area and spatial voids (such as clerestory grand rooms, stairwells, etc.) at the second floor level. Refer to Figure 4.4 – Second Floor Area.

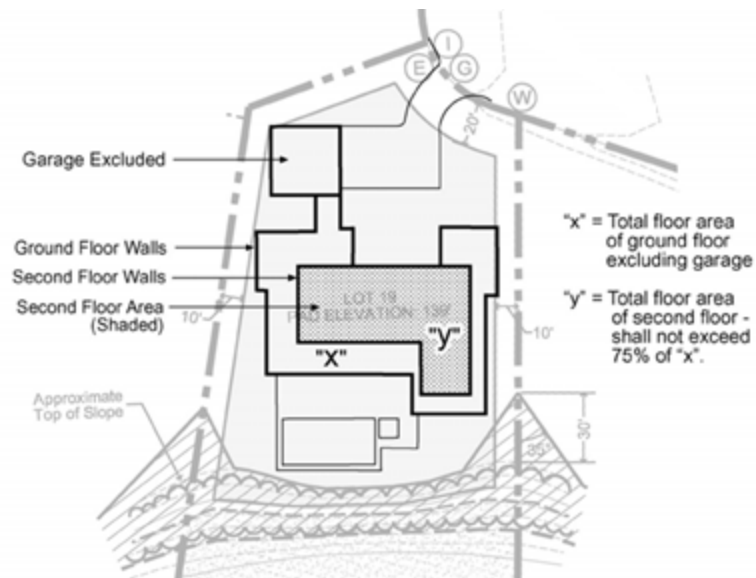


Figure 4.4 –
Second Floor Area

Lanais:

Lanais are strongly encouraged as outdoor living areas; in fact, they are a major element of good Hawaiian home design. They should be designed to match the style of the house, sized to be meaningful and useful spaces, adequately shaded and positioned to maximize view while minimally impacting the privacy of neighbors.

Lanais shall be well integrated into the architecture rather than appearing to be placed on the surface of a façade, or in anyway looking like an added-on feature.

Lanais shall be designed to provide functional space and allow for adequate furnishing. Consideration should be given to trade wind direction to optimize the usefulness of the lanai space.

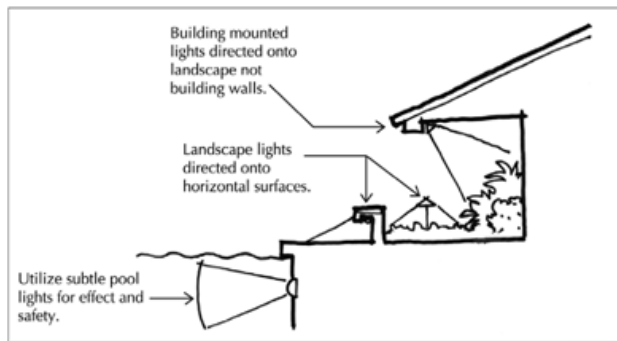
Lanai Railings:

Lanai details should be consistent with the design of the house and not stand out as a separate element. Railings may be wood or wood composite material. In some cases, contemporary design, metal, stainless steel cable or glass will be acceptable. As with all exterior materials, but specially, with composite materials, samples are required to be submitted to the Design Committee for approval. Approval will be based on the quality of the product in terms of finish and detail.

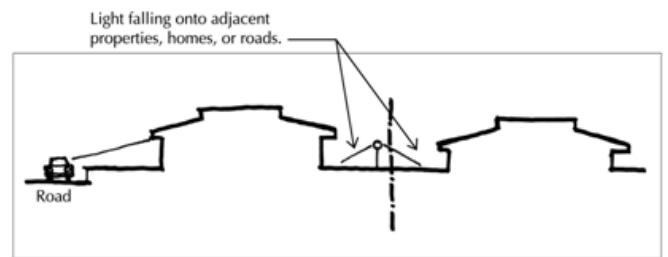
3.11 Exterior Lighting and Displays

- a) All exterior fixtures shall be constructed from copper, heavy-wall brass, anodized aluminum or powder coated aluminum.
- b) No exterior lighting shall be installed on any Lot or building without adequate and proper shielding of the luminaire/light fixture. No lighting fixture shall be installed that may be or become an annoyance/nuisance to the residents of adjacent dwelling units, conflict with or violate County statutes, HCP regulations or Federal Aviation Administration regulations. See Figure 3.0 ALL LIGHTING SHALL BE "DARK SKY" RATED.
- c) In order to minimize adverse impacts on Federally Listed Threatened or Endangered Species, and sea birds such as Newell's Shearwater, Hawaiian Petrel, and other seabirds, any exterior lighting used on a Lot shall only be of the following types: shielded lights, cut-off luminaires, or indirect lighting. Spotlights aimed upward and spotlighting of structures and landscaping is prohibited.
- d) Lighting fixtures shall be installed to strategically illuminate areas for nighttime functions, security, address markers and enhancement of nighttime experience while preserving the night sky ambience and dark sky criteria.
- e) Colored (non-white), fluorescent, high intensity discharge exterior and flashing lights, exposed bulbs and flood lamps on roof eaves are not permitted.

- f) Exterior holiday decorations may only be displayed between the day after Thanksgiving and January 7th.
- g) Political signs and lights are prohibited.
- h) Flags and Flag Poles – Freestanding flagpoles will not be permitted on any Lot. Flags may be mounted on a house and must be of moderate size. The color of the flag pole must match or complement the color of the surface on which it is mounted.



Acceptable



Not Acceptable

a) Figure 3.0 – Lighting Concepts

3.12 Driveways

- a) All driveways shall be paved with a stable permanent construction of at least 16'-0' in width at the entrance to the garage.
- b) Driveways should be constructed in a way to enhance the landscaped Lot area and may encroach into the setback lines to provide adequate width, parking and turning radius.
- c) Driveway aprons shall be paved. Pavement materials shall be approved by the Design Committee. Recommended materials are asphaltic concrete, textured concrete, concrete or stone pavers.
- d) Driveways with a slope of twelve percent (12%) or more shall be paved with concrete.
- e) Entry gates are not permitted.

- f) Maximum grades of driveways shall not exceed fifteen percent (15%).
- g) Driveways shall be regularly maintained and free of mold, mildew and rust.

3.13 Air Conditioning System and Mechanical Equipment

- a) Mechanical equipment shall be located within the buildable area (not in setbacks) unless specifically approved by the Design Committee.
- b) The placement of mechanical equipment on any roof is prohibited.
- c) Mechanical equipment shall be placed behind walls or in enclosures for sound attenuation and visual screening.
- d) The level of sound or noise emanating from air conditioning and other mechanical equipment on a Lot shall not exceed 40 decibels measured from ten (10) feet of any lot line.
- e) If the proposed noise mitigation measures are deemed to be insufficient, the Design Committee may request more information justifying the adequacy of the proposed measures, or the incorporation of additional treatment.
- f) Notwithstanding the above, should complaints occur while any air conditioning or mechanical equipment is in use, the Design Committee may, without liability or limitation, restrict or prohibit the operation of the equipment found to be generating property line noise levels exceeding 40 decibels until the implementation of additional noise mitigation measures that are provided by the owner and approved in writing by the Design Committee.
- g) Cooling with systems of active or passive solar and other forms of energy other than electric may be approved by the Design Committee. Components of such systems that are affixed to the exterior of a building shall not be permitted unless the design thereof is appropriate to the building design and has been specifically

approved by the Design Committee. The Design Committee will consider the view of equipment and components from golf courses, adjacent Lots and streets prior to approval. Solar systems must be installed in a manner that avoids reflecting light in the day or emitting undesirable light at night and will not cause a violation of County, state, or federal dark sky or other requirements.

- h) No window air conditioning units or wall mounted air conditioning units shall be permitted.
- i) There shall be no air conditioning units, pool equipment, irrigation pumps, pool heaters, water purification or softening units, or other equipment placed at the front of any dwelling unit. If such equipment is placed to the side or rear of any dwelling unit but is still visible from any roadway, golf course, lagoon, or adjacent dwelling unit, it shall be fully screened with landscaping or a permanent type of building material.
- j) The location of bedroom windows and doors on dwelling units located on adjacent Lots should be considered when placing air conditioning units or pool equipment in order to mitigate the noise generated by them so as not to disturb neighbors.

3.14 Swimming Pools, Water Features

- a) Swimming pool and water feature design shall be submitted to the Design Committee as part of the preliminary and final plans for a Lot. Swimming pools and swimming pool decks shall have a minimum ten (10) foot setback from property lines.
- b) Swimming pool equipment and housing shall be enclosed and contained within the buildable area. Water features and their equipment and housing shall be contained within the buildable area. Swimming pool equipment rooms shall include sound attenuation mitigation measures.
- c) Equipment areas must be designed to visually and acoustically buffer the equipment from the neighboring Lots and common areas. The

design of any required solid wall or fence enclosure must match the character of other walls of the dwelling unit.

- d) The top of any required wall or fence enclosure should be a minimum of 12" above the top of the equipment, but not higher than 6'.
- e) Mechanical equipment must be placed inconspicuously, yet in accessible locations.
- f) Grade separation as a design tool to achieve swimming pool barrier requirements should be explored thoroughly and, in many conditions, is the preferred method to establish a swimming pool barrier, as and if permitted by applicable code. The proposed swimming pool barrier should be shown on all design submittals. See Figure 3.1 below.
- g) No overhead electrical wire shall cross a swimming pool. All swimming pool lights, other than underwater lights, must be at least four (4) feet from the edge of the swimming pool and code compliant.
- h) Swimming pools and water features shall be maintained and kept operable in accordance with the rules and regulations of the State of Hawaii Department of Health. If a swimming pool or water feature is abandoned or becomes a nuisance, the owner shall demolish and remove the swimming pool or water feature, and insofar as practicable, restore the land to a condition of approximating that which existed prior to the construction of the swimming pool or water feature and properly landscape and maintain the restored area. The method of demolishing the swimming pool or water feature shall be subject to prior written approval by the Design Committee.
- i) The swimming pool area shall be fenced or screened as required by County and State of Hawaii laws and regulations. Fencing and/or screening shall be approved by the Design Committee. Any swimming pool must comply with the current building code.
- j) Temporary drainage hoses are not permitted as permanent elements. If used, they must be rolled up and stored after use.

- k) Swimming pool backflush or drainage is not allowed to be disposed of in the sanitary sewer system, or directly into an open space or other natural drainage area. A drywell may be required for disposal or the ability to meter the flow rate of the effluent. The swimming pool design included in an owner's final plans submitted to the Design Committee must contain swimming pool water removal/backwash means and methods, including the following:

*Route of the discharged water from the rear of the house site to the nearest storm drain;

*Proposed system (permanent buried pipe or temporary hose/apparatus to pump or convey the water to the destination).

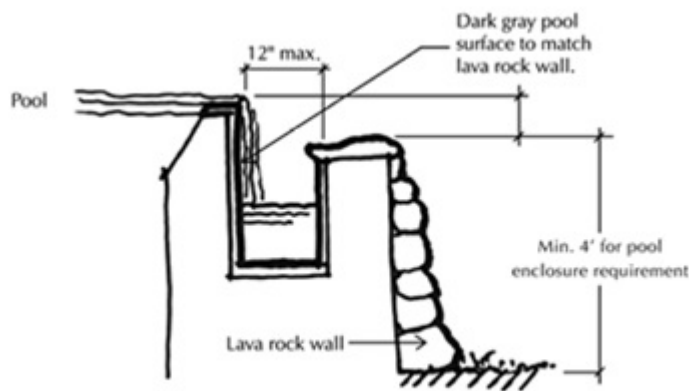


Figure 3.1 pool

wall and trough

3.15 Refuse Storage, Garbage and Trash Disposal

- a) Refuse receptacles are to be located within the buildable area of each Lot. The refuse receptacles must be covered and screened completely from view of adjoining Lots and common areas either by landscaping or other screening material that is compatible in design and color with the main structure.
- b) No Lot shall be used or maintained as a dumping ground for rubbish, trash or other waste.

- c) There shall be no burning of trash or any other waste material on a Lot.
- d) Trash, garbage and recycle containers shall not be placed at the curb for pick up before 6:00pm one day prior to scheduled pick-up and shall be removed from the curb no later than 6:00pm of the pickup day.
- e) Walled or fenced trash enclosures, sized to accommodate two (2) or more trash containers, should be located close to the driveway or side garage door access. Trellises or landscape groupings can be used to help conceal these areas from view.

3.16 Exterior Materials/Colors

- a) All materials shall be either stucco, exterior insulation and finish system (EIFS), plaster, stone, cast concrete, board and batten or shiplap siding. All wood siding shall be paint or stain grade quality or better. Samples of the siding material shall be submitted to the Design Committee as part of the final plan application.
- b) No vinyl, pre-finished metal siding, plain surfaced or grooved plywood panels or composite or pressed-wood siding shall be permitted.
- c) All exterior wall materials must be continued down to within six (6) inches of finish grade so that unfinished foundation walls will not be exposed.
- d) Exterior colors shall match those selected and approved by the Design Committee. This shall apply to repainting even if the repainting is intended to identically match the structure's existing color scheme.
- e) Imitation and faux finishes intended to match these permissible materials are discouraged and must be approved by the Design Committee before use.

- f) Concrete masonry block is not permitted as an exterior finish.
- g) If stucco is applied to the exterior, the stucco must be painted after the stucco is applied or appropriate color agent may be integrated when the stucco is applied.
- h) Stucco and wood are to be maintained "as new" condition and kept free of mold, mildew and rust.
- i) Highly reflective finishes are not permitted.

3.17 Fences, Walls, Hedges and Enclosures

- a) Enclosures are not permitted within ten (10) feet from the property line unless specifically approved by the Design Committee.
- b) Fences, walls, hedges and enclosures up to forty-eight (48) inches in height shall be set back a minimum of ten (10) feet from the front property lines. Exposed face of retaining walls shall not exceed six (6) feet in height, including the non-retaining portions of the walls.
- c) Fences, walls and hedges located along side property lines shall not exceed six (6) feet in height from the finished grade and shall not extend past the front and rear setbacks.
- d) Retaining walls and foundations of more than three (3) feet in height or where placed upon embankments of filled areas shall be designed by an architect or civil or structural engineer duly registered as such in the State of Hawaii. The maximum height of any exposed face of any wall shall be six (6) feet as measured from the finished grade on either side of the base of the wall.
- e) All walls shall be constructed of lava rock, blue rock, concrete or concrete block. All exposed surfaces shall be finished with lava rock, blue rock, veneer or stucco. Rock walls shall be constructed dry or with no mortar showing.

- f) Wood or metal fences are permitted wherever appropriate. The fence shall be of an attractive design, have a high-quality finish and must be approved in writing by the Design Committee. Fence, gate and wall designs should relate to the architecture. Fencing shall be designed to be equally attractive from both sides. The use of a plain board, chain link or vinyl fence is not permitted.
- g) Property line fences shall be developed in common with adjacent property owners to eliminate double fencing, wherever possible.

3.18 Laundry Facilities

- a) Laundry facilities and any service or utility area, including any area for hanging clothes, must be screened from view from other properties, the golf course and roadways.
- b) No clothesline shall be placed on any Lot at any time.
- c) Laundry appliances must be located inside a structure.

3.19 Skylights

Skylights are not permitted at Hokuala due to the dark sky requirement.

3.20 Roof Decks/Observation Platforms

Roof decks and observation platforms are not permitted. Second floor lanais are only permitted where two (2) story buildings are allowed.

3.21 Lanai Enclosures

Lanais may be enclosed with sliding glass doors or screened with the approval of the Design Committee. Solid enclosures, such as roll-down blinds, are prohibited.

3.22 Temporary Structures

No structure of a temporary character, trailer, tent, basement, shack, garage, barn or other out-building shall be used on any Lot at any time.

3.23 Sustainable Development

Hokuala is committed to environmental stewardship based upon resource management and conservation. The designer and builder shall consider the application of Leadership in Energy and Environmental Design (LEED) standards and strategies wherever feasible for sustainable site, utilities and building development. Exterior fixtures such as solar devices, including related hardware, equipment and components shall be clearly indicated on construction drawings and must be permitted prior to Design Committee approval.

3.24 Mailboxes

The required mailbox for each property shall be a postal box cluster provided by the Master Developer, or its affiliate, at a location in relative proximity to the property as designated by the United States Postal Service.

3.25 Fireplaces and Outdoor Fire Features

- a) Open fires in charcoal or gas fire grills commonly used for preparation of meals are permitted.
- b) Open fires in exterior, in-ground decorative natural-gas appliances with listed pilot safety and flame safeguard devices in working order are allowed with the approval of the Design Committee.
- c) Wood burning appliances such as a fireplace without approved spark arresters or front grates are prohibited. Any exposed portion of a chimney outside of the dwelling unit shall be constructed solely of brick, stone or stucco. If a fireplace or other appliance is a metal (self-insulated) type with a metal spark arrestor at the top of the chimney, the arrestor must have a cowling or surround made of material approved by the Design Committee.

3.26 Windows

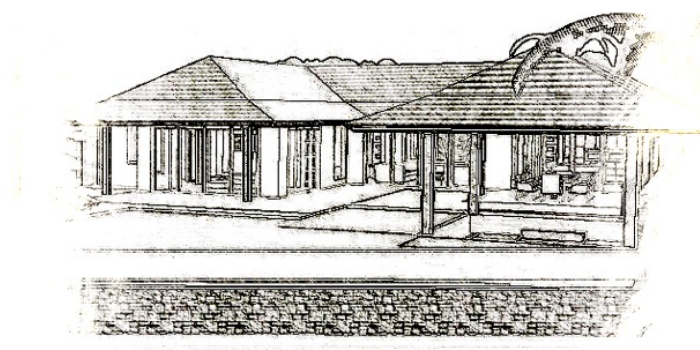
Windows must be wood, aluminum or vinyl with the color of the finish being either oil rubbed bronze, black, brown or white.

3.27 Exterior Furnishings

All exterior furnishings, located in a garden or on a lanai, must be acceptable for exterior use with a proper weathering life span.

3.28 Accessory structures

Covered areas that connect separate structures or are free-standing are to be in scale with the primary structure. Refer to Figure 4.6 – Accessory Structure.



Structure Figure 4.6 – Accessory Structure

4 Landscape Standard

4.1 Overall Landscape Concept

The landscape of Hokualea features a lush, tropical landscape theme. Within this theme are subtle variations and differing treatments that respond to the specific needs of each component of the resort.

The lush landscape character can be defined as a dense, informal landscape comprised of a variety of canopy trees, palms, lush masses of shrubs, groundcovers and expanses of green lawn. Use of Hawaiian canoe plants and indigenous species are encouraged in Hokualea.

Landscaping is restricted to the property line of a Lot.

Landscape elements are arranged in a naturalistic pattern. Plants are planted informally, with an almost random appearance. Within coastal areas planting consists primarily of native, salt tolerant species to retain a natural appearance.

Buildings and planting are arranged in a natural manner to preserve and frame vistas. Golf fairways function as view corridors, and the landscape between Lots and golf courses is generally open, turfed and shaded by strategically located coconut palms that frame individual views.

4.2 Design Considerations

Special functional landscape design considerations include the following:

- Proper arrangement of plant materials to reduce and absorb unpleasant sounds, smells and dust and to create a pleasant microclimate.
- Respect for the ultimate growth of plants and their sensitivity to the site.
- Screening of objectionable views of service areas and provision of privacy.
- The amount and type of maintenance required and the ease of care for the general landscape.
- Selection and placement of trees to frame views but not obstruct view corridors for other Lots.

4.3 Landscape Plans

Landscape plans, prepared by a landscape architect duly licensed as such by the State of Hawaii, are required and must be approved in writing by the Design Committee. Plans shall indicate an irrigation system, drainage and planting design and materials list.

The landscape areas visible by the public from the street, common areas or golf course areas are predominately green and more restrictive (in

terms of plant selection) than private yards, which are enclosed and not readily visible by the public. More colorful plantings are permitted in the enclosed areas. The intent of this differentiation (public and private areas) is to assure the continued visual continuity of the entire Hokuala community.

The landscape plan for each Lot needs to be consistent with Hokuala’s overall landscape concept, which includes both natural and developed landscape for the entire resort.

4.4 Required Landscaping

Landscape work shall be completed and installed, as much as practical, concurrently with building construction and substantially complete no later than the “date of completion”, as that term is defined in Section 507-43 of the Hawaii Revised Statutes (HRS).

4.5 Size and Plant Material

Minimum sizes of plant materials at time of installation shall be:

<u>Plant Material</u>	<u>Minimum Sizes</u>
Flowering and Canopy Trees	8-foot high clear wood and 2-inch diameter at breast height (dbh) caliper trunk
Palm Varieties	3-foot high clear wood
Shrubs	2-foot high, 1 gallon

It is also required that each Lot’s landscape plan include the planting of at least one four (4) inch diameter tree.

An irrigation system must be provided to cover all planted areas and sod.

4.6 Top Soil

Top or fill soil material brought to the Lot site by the owner shall be treated to be free of nut grass, clay, termites and other deleterious matter.

4.7 Undisturbed Areas

No plant material shall be introduced in undisturbed lava and vegetation areas. In addition, no water, fertilizing or other maintenance activities shall occur in the natural undisturbed areas other than those required for cleanup of man-made debris.

4.8 Prohibited Plant List

The plants set forth in the list of Prohibited Plants (attached hereto) include species with characteristics that are incompatible with Hokuala by reason of profuse and obnoxious pollen, excessive height, weed-like characteristics, high water demands and other similar traits. Under no circumstances is it permissible to plant any item from the Prohibited Plants list or any material defined as an invasive species.

4.9 Approved Plant List

To guide owners in selecting plants, a list of Approved Plants (attached hereto) has been established. Plants not listed on the Approved Plants list of but desired by the owner may be submitted to the Design Committee for specific consideration.

4.10 Undeveloped Lots

Owners of undeveloped Lots shall keep their property free from debris, trash and weeds. Trees shall be kept trimmed to eight (8) foot vertical height over sidewalks and twelve (12) foot vertical height over roadways. Grass shall be mowed by a mower (not bush hogged by a tractor) weekly. Waterfront properties shall be kept clear of weeds up to the water edge. Parking of vehicles, boats, trailers, etc. on undeveloped Lots is not permitted. One sign advertising the Lot for sale may be displayed on the Lot. The sign to be used shall be approved by the Design Committee. No other signs are permitted.

4.11 Spraying

- a) The Hawaii Pesticide Law, Chapter 149A of the Hawaii Revised Statutes shall be enforced.
- b) Pesticides must be applied as prescribed by the manufacturer.
- c) Warning must be given to each adjacent property owner prior to pesticide application.
- d) The use of herbicides is strongly discouraged. Natural ground cover to mitigate weeds should be considered.

4.12 Tree Removal

In reviewing the building plans, the Design Committee shall consider the natural landscaping and shall encourage the builder to incorporate it in its landscaping plan. No living trees with trunks larger than eight (8) inch diameters may be removed without approval of the Design Committee, which approval may be based upon the necessity of removal for the construction of the dwelling unit or landscaping of the Lot. If any living tree(s) is (are) removed without the approval of the Design Committee, in violation of this section, the Design Committee shall have the right to require the owner to replace, at the owner's expense, the tree(s) with a tree(s) of comparable caliber and as approved by the Design Committee. If the owner fails to replace said tree(s) within thirty (30) days of receipt of written notice of improper removal, the Design Committee may replace such tree(s) and charge all reasonable expenses thereof, including, but not limited to, administrative, architect and landscaping fees and the costs of materials and labor, plus the cost of collection to the owner. Any dead tree shall be removed from a Lot and replaced at the owner's expense within thirty (30) days of the death of such tree. The replacement tree shall be of the same type as the dead tree unless the Design Committee approves the planting of a different type of tree or determines that the dead tree need not be replaced.

5 Noise Ordinance & Service Vehicle Parking

5.1 Operation of Loud Equipment

Loud equipment including, but not limited to, leaf blowers, lawnmowers, weed trimmers and pressure washers can only be operated between the hours of 8:00 a.m. and 6:00 p.m., Monday through Saturday and between 9:00 a.m. and 6:00 p.m. on Sunday and State & Federal Holidays

5.2 Contractor and Service Vendor Parking

- a) Contractors and Service Vendors may only be scheduled for work or consultation between the hours of 8:00 a.m. and 6:00 p.m., Monday through Saturday. They are not permitted to be scheduled for work or consultation on Sundays or State & Federal Holidays.
- b) No more than 2 vehicles, per lot, belonging to Contractors or Service Vendors are permitted to be parked on the street at any time unless approved by the BOD of the Hokuala Community Association. Approval shall also be required if any service vehicle will be parked for over 8 hours.

6 Approval Procedures and Requirements

6.1 Consultation Services: Approval of Owner's Architect

- a) Before the preparation of preliminary drawings for improvements on a Lot, the Lot owner's architect shall arrange for a pre-application meeting with a representative of the Design Committee for suggestions as to the location and design of the improvements to be constructed on the Lot and assistance in interpretation of the requirements imposed under these guidelines and the Master Declaration. The owner shall use a reputable architect duly registered in the State of Hawaii. The architect's general qualifications will be subject to the prior approval of the Design Committee, and the past performance and credentials of the architect and the architect's general concept for the dwelling unit will be taken into consideration

in evaluating the acceptability of the architect. (The architect approved by the Design Committee is referred to herein as the "Approved Architect") The Design Committee's written approval of the architect shall be obtained by the owner before the architect proceeds to prepare any working drawings.

- b) The Design Committee's acceptance of the Approved Architect in no way constitutes any assumption of liability or responsibility for the Approved Architect's performance by the Master Developer, Design Committee or Master Association.

6.2 Architectural Control

No Structure or other improvement shall be erected, placed or altered on any Lot until:

- a) The preliminary and final construction plans and specifications prepared under the immediate and direct supervision of, and stamped by, the Approved Architect have been submitted to and approved by the Design Committee in writing.
- b) The landscape plans and water feature and or swimming pool plans for the Lot have been submitted to and approved by the Design Committee in writing.
- c) The owner submits to the Design Committee a written acknowledgment (the form of which shall be prepared or approved by the Design Committee) from both the owner and the owner's general contractor, stating that they have received copies of, and agree to abide by, these guidelines and the Master Declaration. It is recommended that the approvals described above be obtained before any materials are ordered or purchased for the construction of improvements on the Lot.

In the event the proposed improvement or alteration is for exterior repainting (decorating the exterior of any structure in a manner affecting only the exterior color thereof) only, it shall only be necessary to obtain

written approval of the color scheme from the Design Committee prior to the commencement of such work.

The interior of any dwelling unit may be repainted, remodeled or redecorated without Design Committee approval. However, modifications to the interior of enclosed patios, porches, lanais or similar areas that are visible from outside the dwelling unit are subject to Design Committee approval.

The approval of the Design Committee may be withheld in its sole discretion, without limitation or liability, upon any of the following grounds:

- a) The construction or alteration work shown on the plans and specifications and other materials submitted fail to comply with the conditions, covenants and restrictions set forth herein or in the Master Declaration or in any other applicable document that is administered by the Design Committee.
- b) The improvements shown on the plans and specifications and other materials submitted are deemed unsatisfactory in location, design, exterior design or color, or would not be in harmony with Hokualea.
- c) The proposed work does not comply with the spirit and intent of relevant documents as applied by the Design Committee.

The approval of any plans, specifications or variances by the Design Committee shall not be deemed to waive the right of the Design Committee to object to the same or similar plans or specifications of any feature or element embodied therein if and when the same or similar plans, specifications, features or elements are submitted for approval for use on other Lots in Hokualea or in the future for the same Lot.

6.3 Review Fee

Review fees will be established on a proposal-by-proposal basis depending on the scale, scope and complexity of the associated review process but in no event shall a review fee be less than five thousand

dollars (\$5,000). The Master Developer and Design Committee will evaluate and adjust the review fee on an annual basis.

6.4 Procedures for Submitting Plans (Design Review Process)

The review and approval process shall consist of a two-step process of Preliminary Design Review and Final Design Review. Once Preliminary Design Approval is given, the owner may submit final plans for Final Design Review. Each owner shall have the Approved Architect submit to the Design Committee the following items for the Design Committee's design review prior to commencing any construction or other work upon the owner's Lot:

a) Preliminary Design Review - Preliminary Plans (3 bound sets)

Preliminary plans must include, without limitation, the following:

1. One-1/8" or 1/4" scale floor plan.
2. Four-1/8" or 1/4" scale exterior elevations with materials indicated.
3. Two-1/8" or 1/4" scale site/building cross sections with elevations and roof height elevations noted.
4. One-1/8" or 1/4" scale site plan showing building placement, roof overhangs, building square footage, vehicle access, percentage of allowable buildable area covered, finish floor elevations, drainage design, existing and proposed preliminary grades, conceptual landscape plan, compass, trade wind and solar orientations, driveway, retaining walls, fences, lanais, decks, patios, easements and building setbacks, existing street tree locations, utility hook-ups, all site dimensions and Lot number, swimming pool, spa, equipment rooms, mail box (if applicable) and any other information which may be requested by the Design Committee.
5. Calculations on building square footage, percentage of buildable area covered and any other calculations that may be required by the Design Committee.
6. Topographic survey of the existing contours at one-foot intervals.
7. Samples of proposed exterior finishes, if applicable.
8. Proposed construction schedule.

9. Variance requests, in writing, for any nonconforming portion of the plan. Any variance requested shall be discussed with the Design Committee prior to submittal of the preliminary plans.
10. List of consultants.

Review of the preliminary plans shall follow the standards and restrictions set forth herein. The review shall consider:

1. Compliance with the Master Declaration, Permits and the HCP.
2. Siting and orientation of the proposed dwelling unit.
3. Setback lines and height restrictions.
4. Building envelope.
5. Architectural character.

b) Final Design Review - Final Plans (3 bound sets)

Final plans must include, without limitation, the following:

1. Final working drawings (including exterior electrical drawings).
2. Landscape (existing and proposed grade with contours and the ground floor finish elevation) and irrigation plans.
3. Specifications (must include electrical specifications).
4. 100% performance bond and 100% labor and material payment bond, if applicable.
5. Ground termite treatment warranty.
6. Hurricane shutter protection scope of work and drawings.
7. Cut sheets for all window and exterior doors.
8. The full non-refundable review fee as determined by the Design Committee.
9. Identification of contractor and subcontractor engaged in the construction of the Lot improvements.
10. Contractor staging and logistics plan, including delivery and personnel parking and street access routes and conformance with Section 6.5 below.
11. Contractor street cleaning contract in conformance with Section 6.4(f) below.

Prior to final approval, the Lot must be staked to accurately reflect the location of all structures.

Plans and specifications submitted to the Design Committee are not reviewed for structural or engineering sufficiency or conformance with any governmental law, ordinance or building code, and, by approving any such plans and specifications, neither the Design Committee nor its members assumes liability or responsibility for any defect in any structure or noncompliance with such law, ordinance or code.

Within thirty (30) days of receipt of all required information, the Design Committee shall respond in writing. If the Design Committee disapproves any submitted plans and specifications, the Design Committee shall notify the applicant in writing. The applicant may request a formal meeting with the Design Committee to review disapproved documents or design concepts. Any revisions requested by the Design Committee shall be resubmitted for approval. The Design Committee shall make a final decision in writing within thirty (30) days of such a formal meeting from the day the revisions are received. The decisions of the Design Committee are final and there are no appeals to the Board.

Upon obtaining written approval of the final plans from the Design Committee, the Lot owner shall submit plans and specifications to the County for permit. In the event that the County approvals have not been obtained within twelve (12) months from the date of approval by the Design Committee, the Design Committee shall have the right, but not the obligation, to review all plans and specifications again, prior to the commencement of construction. A copy of the building permit and a letter of intent to begin construction shall be provided to the Design Committee at least two (2) weeks prior to the commencement of any work on a Lot.

6.5 Applicable Laws

The Lot owner shall be responsible for all submissions to the appropriate federal, state and County agencies, complying with all applicable laws,

regulations, ordinances and codes and acquiring all permits necessary before commencement of any construction work on a Lot.

6.6 Performance of Work

- a) All construction, alterations and landscaping performed or placed on a Lot shall be performed or placed in strict compliance and conformity with the final plans and specifications approved by the Design Committee, and any deviation from such plans and specifications shall require the prior written approval of the Design Committee.
- b) All construction, alterations and landscaping performed or placed on a Lot shall be performed or placed in compliance and conformity with these guidelines and the Master Declaration.
- c) Lot owner must submit preliminary packet to Design Committee no later than twelve (12) months from date of closing.
- d) Construction work must commence within one hundred eighty (180) days of final approval or permit issuance by the governing authority, or approval by the Design Committee shall be automatically revoked without notice. In the event final approval is revoked, the Lot owner must resubmit the plans for final approval by the Design Committee, together with a new review fee, and obtain written approval thereof prior to commencing construction. The Design Committee shall not be bound by the decisions made under prior approvals.
- e) All work must be completed within eighteen (18) months of the date of final approval by the Design Committee, or the Lot owner shall apply for a written extension of time to complete construction from the Design Committee.
- f) The Lot owner shall have its architect provide to the Design Committee a Certified Survey As-Built Plan indicating all improvements, roof heights and setbacks within thirty (30) days from the "date of completion", as that term is defined in Section 507-43, HRS.

6.7 Final Inspection and Acceptance

Prior to occupancy, the Lot owner or the Lot owner's agent shall schedule an onsite inspection meeting with an authorized representative of the Design Committee in order to verify that the construction is in full compliance with the approved plans. The dwelling shall not be occupied until the Lot owner has received a written notice from the Design Committee stating that the dwelling has been inspected and been found to be in compliance with the approved final plans.

If the Design Committee finds that such construction, reconstruction, alteration or refinishing is not compliant with the approved plans, the Design Committee shall notify the Lot owner of such noncompliance. The Lot owner shall then have sixty (60) days from the date of notification to remedy any and all such noncompliance.

7 Construction Requirements

7.1 Material Storage and Temporary Structures

Subject to written approval by the Design Committee, temporary structures, trailers and construction materials may be placed on a Lot only at the commencement of construction and are to be completely removed from the Lot no later than thirty (30) days from the "date of completion", as that term is defined in Section 507-43, HRS. Temporary structures, trailers and construction materials shall be placed on the Lot where construction is occurring and not on any adjacent Lot or common area without the prior written approval of the Lot owner or Master Association, as applicable, and the Design Committee.

No equipment, lumber, brick, stone, cinder block, concrete or any other building materials, scaffolding, mechanical devices or any other items used for building purposes shall be stored on any Lot except for the purposes of construction on that specific Lot. On Lot storage shall not be extended for any period of time than what is reasonably necessary for the construction for which it is to be used. Prior approval for temporary construction storage structures must be obtained from the Design

Committee. Any such construction storage structures may not be used as living quarters.

7.2 Blasting

Blasting shall not be permitted, except where chemical blasting and rock removal is practical. In such a case, any chemical blasting shall be subject to the prior written approval of the Design Committee. All chemical blasting work shall be performed by a contractor licensed in the State of Hawaii.

7.3 Construction Signs

A single construction sign approved by the Design Committee (i.e. sign identifying the name of the contractor, architect and/or construction lender etc. and/or displaying a color rendering of the front of the dwelling unit etc.) is permitted on a Lot. Signage cannot exceed six (6) square feet and shall be mounted no higher than four (4) feet above existing grade to the centerline with the longer dimension parallel to the ground. A contractor shall obtain any required permit for such signage from the County.

7.4 Refuse Disposal Bins, Trash and Site Maintenance

- a) Refuse disposal and cardboard bins shall be placed on a Lot only at the commencement of construction and shall be completely removed from the Lot no later than thirty (30) days from the "date of completion", as that term is defined in Section 507-43, HRS. The disposal bins shall not be placed on any adjacent Lot or common area without the prior written approval of the Lot owner or Master Association, as applicable, and the Design Committee.
- b) Builders are required to keep jobsites clean and neat. Trash and discarded materials must be removed weekly as necessary to maintain a clean jobsite and the removal schedule shall be more frequent if required. Trash bins shall be covered at all times when not being accessed.

- c) Stockpiling of trash or materials on adjacent Lots or other areas within Hokuāla is not permitted.
- d) If the Design Committee determines that trash and debris on the jobsite becomes a problem, a violation notice will be posted on the jobsite by the Design Committee, stating that the site must be cleaned within three (3) days. If after the three (3) day period the site has not been acceptably cleaned, the Design Committee may take action to have the debris removed with all costs involved in the removal charged to the Lot owner.
- e) Proper erosion and debris control measures are the responsibility of the Lot owner and the Lot owner's contractor. The streets must be kept free and clean of all debris from erosion and construction activities. The contractor shall contract with the Master Developer or an approved alternate for weekly street cleaning. The Master Developer and/or Design Committee may require additional street cleaning on an as needed basis, in their sole discretion.
- f) All approved buildable areas must be fenced with a minimum six (6) foot high measured above grade dust fence, clad with eighty percent shade cloth. This fence should be maintained in a straight and orderly condition throughout the construction period. All driveway, dumpsters and portable toilets must be housed within the fenced perimeter. All improvements must occur within the fenced area.
- g) Builders are responsible for any materials or objects that spill or leak from vehicles anywhere within Hokuāla. If spillage does occur, it is the responsibility of the operator for clean-up. Clean-up done by the Design Committee may be charged to the responsible Lot owner.
- h) The County requires all green waste to be disposed on-site. The contractor will be required to grind and mulch any green waste to reduce size, then haul said waste to the designated Hokuāla green-waste mulch site.

- i) Hokuala is required by the County to implement best management practices for recycling and waste reduction systems to manage debris generated during all construction phases of the Hokuala development. This is a County imposed condition due to the limited space available at County waste disposal sites. The contractor shall implement a Construction Solid Waste Management Program prior to commencement of construction.

7.5 Site Preparation & Traffic Control

- a) The grade of the driveway apron to the property line of each Lot must be completed prior to the start of construction of any other structure on the Lot. All irrigation lines within any landscaped common area of a condominium project or planned unit development must be sleeved, reconnected and reburied, and all associated irrigation heads relocated as necessary. The contractor shall notify the Design Committee prior to performing any such work.
- b) All construction and service personnel, construction materials delivery and food and food supplies delivery shall enter and exit Hokuala only from the perimeter road off Kapule Highway (Ninini Point Street). Access from the main entrance of Hokuala at Rice Street or across the golf course is not permitted.
- c) Vehicles must be parked so as not to obstruct traffic flow or to cause damage to any real or personal property. No construction or delivery vehicles of any nature may be left in Hokuala overnight. Construction equipment may be left on the site but must be kept off the street.
- d) Washing of any vehicle or equipment on the street is not permitted. Any washing of concrete delivery trucks must be done on the construction site in collection basins and removed from the site for disposal.
- e) Should any utility lines, including, without limitation, telephone, cable TV, electrical and water lines, be cut or otherwise damaged, it is the responsible party's obligation to report this occurrence immediately.

Cost of the repair will be borne by the responsible party or responsible Lot owner.

7.6 Portable Toilets

- a) A fully operational portable toilet must be maintained on the construction site at all times during construction and serviced in accordance with applicable State of Hawaii Department of Health and County sanitation standards.
- b) Any such toilet must be 1) located off the right-of-way and behind the construction fencing, with the door thereto opening in a direction not facing any street, 2) sanitized weekly and 3) kept generally free of litter both in and around the facility.

7.7 Contractor's Acknowledgment & Liability

- a) Each Lot owner shall be required to have such owner's contractor contact the Design Committee prior to commencing any construction or work upon the owner's Lot. The contractor shall be provided with a copy of these guidelines and shall be required to acknowledge in writing the contractor's receipt of, and agreement to comply with, all requirements prior to commencing any construction work.
- b) The Lot owner is wholly liable for the Lot owner's contractor and all subcontractors and vendors employed thereby.
- c) Damage to streets, drainage inlets, streetlights, street markers, walls, fences and other structures shall be repaired by the party causing the damage. If not corrected within three (3) days, the Design Committee may repair the damage and charge the cost thereof to the responsible Lot owner.
- d) If historic/cultural remains such as archeological artifacts, charcoal deposits or human burials are found during construction, the contractor shall stop work in the immediate area and contact the State of Hawaii Historical Preservation Division at 808-587-0400 (or current telephone number if different), the Kauai County Planning

Department and Master Developer to determine the appropriate action to be taken.

- e) Prior to initial occupancy, the fire and life safety systems of the dwelling shall be fully operational, have been tested by the contractor and approved by all agency authority having jurisdiction.
- f) Any and all construction activities must comply with the requirements of the HCP. Hokualea is unique in that it is home to the endangered water bird species and listed endangered seabird species identified below, which are protected under both federal and State of Hawaii endangered species laws. Water birds include: Nene (Hawaiian Goose), Common Moore hen ('Alael'ula), Hawaiian Coot ('Alae ke'oke'o), Hawaiian Duck (Koloa), Hawaii Stilt (A'eo). Seabirds include: Newell's Shearwater, Hawaiian Petrel and Band-rumped Storm Petrel.

Note: Violations of endangered species statutes may result in the shutting down of construction activities until wildlife agencies are satisfied that any problems that resulted from a violation of the law have been remediated. Severe violations may result in significant constraints being placed on Hokualea by wildlife regulatory agencies. Any fines or other penalties imposed on Hokualea shall be the burden of the responsible contractor and/or Lot owner to pay or otherwise resolve. The responsible Lot owner shall indemnify and defend the Master Developer, Master Association and Design Committee against all actions, suits, damages and claims, including, without limitation, any such fines or other penalties, arising or resulting from the action or inaction of the Lot owner and/or the Lot owner's contractor, subcontractors, vendors and other licensees and invitees that are or are alleged to be a violation of any endangered species statute.

7.8 Construction Fencing

A minimum six (6) foot high fence with eighty percent shade cloth construction fence shall be installed by the contractor at the start of each project and kept in place until all exterior building construction, Lot grading and landscaping has been completed.

7.9 Dust and Noise Control

- a) The contractor shall be responsible for controlling dust and noise from the construction site.
- b) Loud music will not be allowed within Hokuāla. Normal volume levels are acceptable. If a valid complaint is filed, the contractor will be required to remove the source of noise. No music shall be heard from the golf course.
- c) No builder, contractor, trade contractor, supplier, maintenance or service personnel will be permitted to bring any animals to the construction site.

7.10 Working Hours

Contractors working hours shall be limited to: 7:30am to 5:00pm on weekdays and 9am to 4pm on Saturdays. No work shall be done by contractors or Lot owners on Sundays or the holidays listed below. No personnel are to remain on the construction site after working hours.

Holidays include: New Year's Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Friday after Thanksgiving, Christmas Eve, Christmas Day and New Year's Eve.

7.11 Foundations

- a) The Lot owner and the Lot owner's architect, engineer and contractor shall give due consideration to the design of the foundation systems of all structures.
- b) Undetected lava tubes may occur below the surface.
- c) Portions of Hokuāla have been filled. Ground may settle in filled areas.

- d) It is the Lot owner's responsibility to conduct an independent geotechnical soils engineering investigation to determine the suitability and feasibility of any Lot for construction of the intended improvement(s). The Master Developer, Master Association and Design Committee make no warranties or representations regarding the suitability of the existing soils.

7.12 Ground Termite Standards

- a) Soil under all concrete slabs on the ground and under all building floors, whether on ground or over air space, and under all footings and masonry foundation walls, shall be treated against subterranean termites by a reliable, established termite control company licensed by the State of Hawaii.
- b) Treatment shall be guaranteed in writing by said company against termite infestation for a period of five (5) years. The guarantee shall include annual inspections and retreatment of infested areas if termites are identified during said inspections.
- c) Chemicals used outside of the dwelling or in accessible spaces under the dwelling shall be applied in a safe manner to mitigate exposure to humans, plants and pets.

7.13 Abandoned Construction

If construction of a dwelling is at any time abandoned, the Lot owner shall cause the Lot to be cleared and landscaped so as to present a neat appearance and shall thereafter so maintain the Lot until the recommencement of construction activity.

7.14 Cash Bond

A Lot owner's contractor shall be required to put up a refundable cash bond in the amount of five thousand dollars (\$5,000.00) in favor of the Design Committee to cover any repair costs due to any damage to the Master Association's property or other common areas within Hokuala.

7.15 Performance Bond

All construction shall be bonded, guaranteeing full completion of the project in accordance with the approved construction documents. A copy of the executed bond shall be delivered to the Design Committee prior to the start of construction. The Design Committee may require that any subsequent exterior alterations, modifications or improvements be similarly bonded to guarantee full completion.

7.16 Insurance

- a) A Lot owner and Lot owner's contractor shall secure, pay for and maintain such insurance that will protect them, Tower Kauai Lagoons, LLC, Tower Kauai Lagoons Sub 4, LLC, the Design Committee and the Master Association from claims directly or indirectly arising or alleged to arise out of the performance of or failure to perform any work on the Lot, including, but not limited to, claims by workmen, suppliers or subcontractors, claims under any scaffolding, structural work or safe place law, or any law with respect to protection of adjacent landowners, and any other claims for damages to property other than the work itself or for bodily injury, including death, which may arise in whole or in part from operations by the Lot Owner or Lot owner's contractor. Such insurance shall cover all contractual obligations that the Lot owner has assumed. Policies required to be obtained by a Lot owner and Lot owner's contractor shall be primary and non-contributory insurance, and any insurance maintained by the Lot owner shall be in excess thereof and non-contributory with the insurance required under these guidelines. All insurance shall be maintained in a manner that meets all applicable governmental requirements and shall be procured from companies rated by Best's Rating Guide at not less than A/VIII and authorized to do business in the State of Hawaii. Upon written request by the Master Association or the Design Committee, a Lot owner and the Lot owner's contractor shall furnish certificates of insurance evidencing the existence of the insurance required to be carried pursuant to this section.
- b) Workers' Compensation and Employer's Liability Insurance. A Lot owner and Lot owner's contractor shall secure, pay for and maintain

workers' compensation insurance in an amount not less than statutory limits and employer's liability insurance at the following minimum limits: bodily injury by accident - \$500,000.00 per each accident; bodily injury by disease - \$500,000.00 policy limit; and bodily injury by disease - \$500,000.00 each employee.

- c) General Liability Insurance. A Lot owner and Lot owner's contractor shall secure, pay for and maintain general liability insurance including the following minimum coverages for bodily injury and property damage: general aggregate - \$2,000,000.00; complete operations - \$1,000,000.00; each occurrence - \$1,000,000.00; personal - \$1,000,000.00; commercial automobile - \$1,000,000; fire damage - \$50,000.00; and medical expense - \$5,000.00. General liability insurance shall include an endorsement naming Tower Kauai Lagoons, LLC; Tower Kauai Lagoons Sub 4, LLC; the Design Committee and the Master Association as additional insureds.

7.17 Emergency Declaration

If the Master Developer or any other authority having jurisdiction over Hokualea declares an emergency, all construction work on a Lot shall be suspended, except for work required to secure existing onsite materials and structures. No personnel are authorized to remain on site until the emergency declaration has been lifted.

8 Invalidation of Individual Criteria

Invalidation of any one of these provisions and criteria by judgment or court order shall in no way affect any of the other provisions that shall remain in full force and effect.